SINGLE BENCH (1)

C. f. 1001

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. NO. 4612/2005

PETITIONER : Mohamad Sultan S/o Mohd. Hanif Khan aged about 45 years R/o Link Road Bilaspur District Bilaspur (C.G.)

4661/05
4761/05
4761/05
P.R. Lamba Samar Singh
Presented on 8/9/05
dated.....

VERSUS

RESPONDENTS :
1. State of C.G. Through Secretary, Panchayat & Gramin Vikas Vibhag D.K.S. Bhawan Raipur
2. Director Panchayat & Gramine Vikash Vibhag D.K.S. Bhawan Raipur (C.G.)
3. Upper Collector , Janjgir Champa Distt. Janjgir Champa (C.G.)
4. Chief Executive Officer, Janapad Panchayat, Baloda, Distt. Janjgir Champa
5. Fishery Inspector, Baloda Tahsil Janjgir, Dist. Janjgir Champa (C.G.)
6. Gram Panchayat Bachhoud, Vikashand, Baloda Through Sarpanch, Gram Panchayat Bachhoud Vikashkhand , Baloda
7. President Mahamrityunjay Mahila Machhua Sahkari Samiti Village – Panchayat Bachhoud Janpad Panchayat

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8/9/05
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(2)

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Baloda District Janjgir –
Champa

8. Assistant Director, Fishery
Industry Janjgir – Champa

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P. 4612/ ..... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

7-11-2005

Mrs. Renu Kochar, counsel for the petitioner.

Mr. Y.S. Thakur, Govt. Advocate for the State/respondents No.1, 2, 3 & 5.

Heard on admission.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India, questioning the legality, propriety and correctness of order dated 5-7-2005 passed by the Director, Panchayat in Appeal No.159/B-121/03-04 whereby learned Director allowing the appeal quashed the order of allotment of the tanks in question in favour of the petitioner and further passed the order that the lease of respondent No.7 has been cancelled without giving due opportunity to him to represent his case.

The case of the petitioner is that the petitioner is a fisherman and he was allotted the tanks in question for fishing purposes by the Gram Panchayat situated at Khasra No.754 total area 2.666 hectares, the other tank situated at Khasra No. 729 admeasuring area 0.87 hectare and the third tank situated at Khasra Nos.4391, 43912 & 439/2 area 8.503 hectares on 11-2-2004 at the rate of Rs.19,030/- per year. On allotment of the three tanks, the petitioner already put the seeds of fish of value Rs.18,000/- in all the three tanks, as the said tanks were earlier allotted in favour of respondent No.7 which was cancelled by

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

respondent No.3 upon which the same was allotted in favour of the petitioner. Respondent No.7 preferred an appeal before the Director, Panchayat, who quashed the order by the impugned order, which is perverse, and same has been passed without appreciating the facts and circumstances.

I have perused the impugned order. In the last paragraph of the impugned order, learned Director, Panchayat has mentioned that all the three tanks in question have been allotted in favour of the petitioner in contravention of the order of the Fisheries Department, Govt. of Madhya Pradesh (No.2886/96/36 dated 30-10-1996) and the allotment has been made in contravention of the policy and directions contained in paras 2 & 5 of the said order. Moreover, the allotment order dated 11-2-2004 passed in favour of the petitioner is based upon the decision of only five Panchas out of 13 Panchas of the Panchayat. Moreover, the allotment in favour of respondent No.7 has been cancelled without following the principles of natural justice and giving opportunity to respondent No.7 to explain the allegations against him. No doubt the petitioner is an individual person and the Government has laid down a policy giving priority list according to which the tanks for fishing purposes are to be allotted. No doubt the Panchayat has allotted the tanks in question in favour of the petitioner in contravention of the Government policy. Therefore, I do not find any illegality or infirmity in

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the order impugned. On this count, the order impugned does not require interference by this Court.

However, learned counsel for the petitioner argued that after allotment of the three tanks, the petitioner had already spread the seeds of fish in the year 2004, and within a period of three months fishes shall be ripe for fishing purposes. If the petitioner is not allowed to take out those fishes then he will suffer irreparable loss without any fault on his part.

In view of the above fact, the respondents are directed to allow the petitioner to take out fishes from the three tanks within a period of three months i.e. up to the end of February, 2006. On 1st March, 2006, the petitioner shall hand over the possession of tanks to the Gram Panchayat for further action, in accordance with law.

The writ petition stands disposed of, at the admission stage, in the above terms.

In view of this order, I.A.Nos.8298/2005 and 8299/2005 also stand disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Sarma

SP/FS/2005 - 20,000

1.12.05 12/1/06